

ASSEMBLY BILL

No. 1653

Introduced by Assembly Member Mullin

February 21, 2003

An act to add Sections 1239.5 and 1470 to the Penal Code, relating to appeals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1653, as introduced, Mullin. Appeals: attorneys: contempt.

Existing law provides that an appeal to the court of appeal may not be taken from a judgment of contempt that is made final and conclusive. Existing law allows the court of appeal to review judgments or orders imposing monetary sanctions on an attorney for a party only if the amount of the sanction is greater than \$5,000, if it is part of an appeal of the judgment in the main action, or if the court of appeal, in the exercise of its discretion, grants review.

This bill would provide that an attorney for a party in a criminal action who is the subject of a sanction order or finding of contempt may appeal to the court that is authorized to hear an appeal of the judgment in the main action or, in the alternative, may appeal the order or finding as part of an appeal of the final judgment in the main action. The bill would require a court to stay the execution of the order or imposition of punishment while the appeal is pending, unless it finds that a stay would frustrate the interests of justice and states it reasons, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1239.5 is added to the Penal Code, to read:

1239.5. (a) If the court in a criminal proceeding issues a sanction under any provision of this code or the Code of Civil Procedure against an attorney for a party, or finds an attorney for a party guilty of contempt under subdivision (a) of Section 1218 of the Code of Civil Procedure, the attorney may appeal to the court that is authorized to hear an appeal of the judgment in the main action. In the alternative, a sanction order or finding of contempt against an attorney for a party may be reviewed on an appeal by that party after entry of final judgment in the main action.

(b) While an appeal of a sanction order or finding of contempt pursuant to subdivision (a) is pending, the court shall stay the execution of the order or imposition of punishment, unless it finds that a stay would frustrate the interests of justice. If the court does not stay the execution of the order or imposition of punishment pursuant to this subdivision, it shall set forth its reasons in the minutes reflecting the imposition of the sanction or punishment.

(c) Nothing in this section shall affect the availability of any other means by which a sanction order or finding of contempt may be reviewed, or execution stayed, pursuant to any other provision of law.

SEC. 2. Section 1470 is added to the Penal Code, to read:

1470. If the court in a criminal proceeding issues a sanction under any provision of this code or the Code of Civil Procedure against an attorney for a party, or finds an attorney for a party guilty of contempt under subdivision (a) of Section 1218 of the Code of Civil Procedure, the attorney may appeal the sanction or finding of contempt pursuant to Section 1239.5.